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In re Application of  
DASSOULAS, Stephen, C., et al. : COMMUNICATION  
U.S. Application No.: 09/890164 : REGARDING SUBMISSION  
PCT No.: PCT/US00/01609 : UNDER 37 CFR 1.42  
International Filing Date: 24 January 2000 :  
Priority Date: 25 January 1999 :  
Attorney's Docket No.: 0275Y0312USB :  
For: SAW BLADE FOR CUTTING FIBER CEMENT :

This Communication is issued in response to applicants' 01 August 2002 submission of a declaration executed on behalf of deceased inventor Michael Lindberg, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

### BACKGROUND

The background for this application is set forth in the previous Communication issued by this Office on 18 June 2002.

Subsequent to that Communication, on 02 July 2002, the DO/EO/US mailed a Notification Of Defective Response indicating that the declaration filed by applicants was defective in that it was not properly executed with respect to the deceased inventor.

On 01 August 2002, applicants filed the response considered herein as a submission under 37 CFR 1.42. This submission included a declaration executed on behalf of the deceased inventor by Laura Lindberg, identified as the executor of the deceased inventor's estate.

### DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and,

upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for **both** the deceased inventor and the legal representative. The regulation expressly requires the inclusion of this information for the legal representative. As for the deceased inventor, such information is required because the legal representative must declare to all the facts which the inventor would have been required to state, and citizenship, residence and mailing address are among the facts which the inventor would have been required to set forth pursuant to 37 CFR 1.497(a) and 37 CFR 1.63.

Here, as noted above, the declaration submitted on 01 August 2002 was executed by Laura Lindberg as "executor for the estate of Michael Lindberg." The declaration therefore satisfies the requirement that it be executed by the deceased inventor's legal representative and that it expressly state the relationship of the signee to the deceased inventor.

However, the declaration does not comply with 37 CFR 1.497(b)(2), discussed above, in that it does not include citizenship, mailing address, and residence information for the deceased inventor (such information is provided for the legal representative, as also required). Because the declaration does not provide all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42.

### CONCLUSION

The 01 August 2002 submission under 37 CFR 1.42 is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment.

A proper response must include an acceptable declaration properly executed under 37 CFR 1.42, that is, a declaration executed by the legal representative for the deceased inventor which indicates the executing persons relationship to the deceased inventor (i.e., executor) and which includes all required information, including the citizenship, post office address, and residence information for both the deceased inventor and the legal representative.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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